

REMARKS

Claims 59-116 are pending. The Examiner has required restriction of the claims to one of the following groups under 35 U.S.C. §121:

- I. Claims 59-90, 93-99, 102-111, 113, and 115-116, drawn to a polynucleotide comprising a gene encoding a desired product, a promoter, as well as a second promoter and a fusion gene comprising a selectable gene and an amplifiable selectable gene, as well as cell and kits comprising the same, classified in class 435, subclass 320.1; and
- II. Claims 91-92, 100-101, 112 and 114, drawn for a method of producing a desired product comprising introducing the polynucleotide comprising a gene encoding a desired product, a promoter, as well as a second promoter and a fusion gene comprising a selectable gene and an amplifiable selectable gene, classified in class 435, subclass 69.1

Applicants hereby elect, without traverse, group I (claims 59-90, 93-99, 102-111, 113, and 115-116). Applicants expressly reserve the right under 35 U.S.C. §121 to file one or more divisional applications directed to the non-elected subject matter during the pendency of the instant application.

Applicants request rejoinder of withdrawn process claims that depend from or otherwise include all of the limitations of allowable product claims, in accordance with the provisions of MPEP § 821.04.

An action on the merits of these elected claims and a Notice of Allowance thereof are respectfully requested. In the unlikely event that the transmittal letter is separated from this document and the U.S. Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Director to charge the cost of such petitions and/or other fees due in connection with the filing of this document to our Deposit Account No. 07-0630.

Respectfully submitted,

Genentech, Inc.

DATE: June 29 2005 By: Cara Coburn

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